

DEPARTMENT OF LABOR AND INDUSTRY

CHAPTER 177

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Sub-Chapter 1

Organizational Rule

24.177.101 ORGANIZATIONAL RULE (1) The board of physical therapy examiners adopts and incorporates the organizational rules of the department of labor and industry as listed in chapter 1 of this title. (History: 37-11-201, MCA; IMP, 2-4-201, MCA; NEW, 1979 MAR p. 1243, Eff. 10/12/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 380.)

Sub-Chapter 2

Procedural Rules

24.177.201 PROCEDURAL RULES (1) The board of physical therapy examiners adopts and incorporates the procedural rules of the department of labor and industry as listed in chapter 2 of this title. (History: 37-11-201, MCA; IMP, 2-4-201, MCA; NEW, 1979 MAR p. 1243, Eff. 10/12/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 380.)

24.177.202 PUBLIC PARTICIPATION RULES (1) The board of physical therapy examiners adopts and incorporates by this reference the public participation rules of the department of commerce as listed in chapter 2 of Title 8. (History: 37-11-201, MCA; IMP, 2-3-103, MCA; NEW, 1979 MAR p. 1243, Eff. 10/12/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 380.)

Sub-Chapter 3 reserved

Sub-Chapter 4

General Provisions

24.177.401 FEES (1) The fees shall be as follows:

(a) Application for NPTE and NPTAE examination \$285
(paid directly to the federation of state boards of physical therapy (FSBPT) by either cashier's check or money order only)

(b) Application for out-of-state licensure	50
(c) Renewal	25
(d) Late renewal (if paid after April 1)	50
(e) Temporary license	50
(f) Original license	25
(g) Jurisprudence re-examination (each retake)	5
(h) Duplicate license	5
(i) Lists	5
(j) NPTE and NPTAE test history verification	55

(2) All fees are non-refundable. (History: 37-1-134, 37-11-201, MCA; IMP, 37-1-304, 37-11-201, 37-11-304, 37-11-307, 37-11-308, 37-11-309, MCA; NEW, 1979 MAR p. 1243, Eff. 10/12/79;

AMD, 1980 MAR p. 1279, Eff. 4/25/80; AMD, 1980 MAR p. 1607, Eff. 6/13/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 593, Eff. 3/26/82; AMD, 1983 MAR p. 348, Eff. 4/29/83; AMD, 1983 MAR p. 1664, Eff. 11/11/83; AMD, 1988 MAR p. 168, Eff. 1/29/88; AMD, 1990 MAR p. 2107, Eff. 11/30/90; AMD, 1991 MAR p. 2450, Eff. 12/13/91; AMD, 1994 MAR p. 159, Eff. 1/28/94; AMD, 1994 MAR p. 1583, Eff. 6/10/94; AMD, 1995 MAR p. 2483, Eff. 11/23/95; AMD, 1997 MAR p. 38, Eff. 1/17/97; AMD, 1997 MAR p. 1359, Eff. 8/5/97; AMD, 1998 MAR p. 460, Eff. 2/13/98; AMD, 2000 MAR p. 1038, Eff. 4/28/00; TRANS, from Commerce, 2005 MAR p. 380.)

Rules 24.177.402 through 24.177.404 reserved

24.177.405 LICENSURE EXEMPTIONS, SUPERVISION AND DELEGATION (1) Whereas 37-11-101, MCA, creates and defines physical therapy students, physical therapist assistant students and physical therapy aides, the board interprets such categories as exempt from licensure as physical therapists or physical therapist assistants so long as the supervision requirements stated in 37-11-101, MCA, are strictly adhered to. Such supervision requirements include also those imposed by 37-11-105, MCA.

(2) The board, therefore, finds it necessary to define periodic checks, supervision and direct supervision to mean on-site guidance by a licensed physical therapist who is responsible for and participates in a patient's care. Supervision of an assistant that requires on-site visits means that the physical therapist shall meet with the client personally at least once every six visits or once every two weeks, whichever occurs first.

(3) Components of tests and measurements of bodily functions and structures administered by a licensed physical therapist may be delegated to a licensed physical therapist assistant. (History: 37-1-131, 37-11-201, MCA; IMP, 37-11-105, MCA; NEW, 1979 MAR p. 1243, Eff. 10/12/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 593, Eff. 3/26/82; AMD, 1990 MAR p. 2107, Eff. 11/30/90; AMD, 1995 MAR p. 2483, Eff. 11/23/95; AMD, 2003 MAR p. 2549, Eff. 10/17/03; TRANS, from Commerce, 2005 MAR p. 380.)

Rules 24.177.406 through 24.177.409 reserved

24.177.410 LIST OF LICENSED PHYSICAL THERAPISTS (1) Upon written request and payment of \$5, the board office shall mail to an interested person a list of licensed physical therapists. The list is furnished by the board for public information purposes only. It is not intended for use by private parties as a mailing list and no permission has been obtained from the individual licensees for such purposes. The use of material supplied by a state agency as a mailing list to private parties without the permission of those on the list is prohibited by 2-6-109, MCA. (History: 37-11-201, MCA; IMP, 37-11-201, MCA; NEW, 1985 MAR p. 687, Eff. 6/14/85; AMD, 1990 MAR p. 2107, Eff.

11/30/90; AMD, 1997 MAR p. 38, Eff. 1/17/97; TRANS, from Commerce, 2005 MAR p. 380.)

Sub-Chapter 5

Licensing

24.177.501 EXAMINATIONS (1) The examination will be the national physical therapy exam (NPTE) or another equivalent examination as the board may in its discretion approve and adopt for physical therapist applicants. The examination for physical therapist assistants will be the national physical therapist assistant examination (NPTAE), or another equivalent examination as the board may in its discretion approve and adopt.

(2) Exact examination dates will be established by the current testing service as the national uniform testing date. Applicants must have their complete applications in the board office at least 45 days prior to the examination date.

(3) The board may, after review of an application, request the applicant to meet with the board at a time designated by the board and prior to licensure, for the purpose of conducting an oral interview.

(4) Applicants for examination shall file with the board office an application which shall include the following:

(a) application for examination fee;

(b) copy of their certificate of graduation or transcripts from a board-approved physical therapy school or physical therapist assistant curriculum;

(c) three statements of good moral character, one of which is a professional reference from a licensed physical therapist, and two others from persons with knowledge of the applicant within the past five years. All reference letters must be sent directly to the board office from the reference source;

(d) verification of physical therapy or physical therapist assistant instruction and graduation; and

(e) recent photograph of the applicant.

(5) The applicant shall score a passing grade equal to or higher than a scaled score of 600, the criterion-referenced passing point recommended nationally by the federation of state boards of physical therapy. The passing score on the jurisprudence examination shall be 90%.

(a) All applicants who have previously taken the NPTE, in any jurisdiction, shall submit a request for test history verification and fee to the testing service, on a form prescribed by the board.

(6) The jurisprudence examination shall be an open book examination covering current Montana physical therapy statutes and rules, subject to Title 37, chapters 1 and 11, MCA, standards of care and definition of moral turpitude. The jurisprudence examination must be passed by all examination and out-of-state applicants before original licensure will be granted. Separate provisions will be made for taking the jurisprudence examination prior to licensure. Applicants failing the jurisprudence examination must retake said

examination until passed. The fee of each retake will be assessed in accordance with the established fee schedule. (History: 37-1-131, 37-11-201, MCA; IMP, 37-1-304, 37-11-303, 37-11-304, MCA; NEW, 1979 MAR p. 1243, Eff. 10/12/79; AMD, 1980 MAR p. 1607, Eff. 6/13/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 593, Eff. 3/26/82; AMD, 1983 MAR p. 1664, Eff. 11/11/83; AMD, 1986 MAR p. 792, Eff. 5/16/86; AMD, 1990 MAR p. 2107, Eff. 11/30/90; AMD, 1994 MAR p. 159, Eff. 1/28/94; AMD, 1994 MAR p. 1583, Eff. 6/10/94; AMD, 1995 MAR p. 2483, Eff. 11/23/95; AMD, 1997 MAR p. 38, Eff. 1/17/97; AMD, 1997 MAR p. 1359, Eff. 8/5/97; AMD, 2001 MAR p. 344, Eff. 2/23/01; TRANS, from Commerce, 2005 MAR p. 380.)

Rules 24.177.502 and 24.177.503 reserved

24.177.504 TEMPORARY LICENSES (1) Applicants for licensure who are holders of a license in another state may be issued a temporary license to practice pending licensure by the board. An interview with at least one board member may be required. Said temporary license will expire when the board makes its final determination on licensure.

(2) Physical therapist or physical therapist assistant applicants for licensure by examination may be issued a temporary license. The temporary license shall identify the licensed physical therapist who shall be responsible for providing direct supervision. After issuance of the temporary license, the applicant must take his/her examination within 120 days of the issuance date. The temporary license shall be valid until the board makes its final determination on licensure, but may be extended at the board's discretion. Only one temporary license will be issued per applicant.

(3) If the applicant fails the NPTE, the applicant may sit for the next scheduled examination. Temporary licenses will not be extended while the applicant is waiting to retake the NPTE examination. (History: 37-1-131, 37-1-319, 37-11-201, MCA; IMP, 37-1-305, 37-11-309, MCA; NEW, 1979 MAR p. 1243, Eff. 10/12/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 593, Eff. 3/26/82; AMD, 1983 MAR p. 348, Eff. 4/29/83; AMD, 1983 MAR p. 1664, Eff. 11/11/83; AMD, 1990 MAR p. 2107, Eff. 11/30/90; AMD, 1994 MAR p. 159, Eff. 1/28/94; AMD, 1995 MAR p. 2483, Eff. 11/23/95; AMD, 1997 MAR p. 38, Eff. 1/17/97; AMD, 1997 MAR p. 1359, Eff. 8/5/97; AMD, 1998 MAR p. 460, Eff. 2/13/98; AMD, 2004 MAR p. 75, Eff. 10/17/03; TRANS, from Commerce, 2005 MAR p. 380.)

Rules 24.177.505 and 24.177.506 reserved

24.177.507 LICENSURE OF OUT-OF-STATE APPLICANTS (1) Each applicant applying for licensure who holds a current license in another state must have taken the NPTE or NPTAE or the national registry exam in another state to be considered for licensure. All NPTE or NPTAE scores must be reported directly to the board office through the interstate reporting service.

(2) Applicants for licensure from another state shall file with the board office an application which shall include the following:

- (a) application for licensure from another state fee;
- (b) copy of their certificate of graduation or official transcripts from a board-approved physical therapy school or physical therapist assistant curriculum;
- (c) recent photograph of the applicant within the last six months;
- (d) submit three statements of good moral character, one of which is a professional reference from a licensed physical therapist, and two others from persons with knowledge of the applicant within the past five years. All reference letters must be sent directly to the board office from the reference source;
- (e) verification of all current licenses from other states;
- (f) verification of physical therapy or physical therapist assistant instruction and graduation; and
- (g) completion and passage of the jurisprudence examination.

(3) Applicants applying for licensure from another state who have not been actively engaged in the profession of physical therapy or physical therapist assistant in the five years immediately preceding application shall be required to undergo continued study in the field of physical therapy or physical therapist assistant. Continued study may include, but will not be limited to:

- (a) supervised internships;
- (b) independent study;
- (c) refresher courses;
- (d) pertinent graduate or undergraduate course work;
- (e) pertinent continuing education courses; and
- (f) specialized study in a specific area.

(4) All the above would be subject to the discretion of the board. (History: 37-1-319, 37-11-201, MCA; IMP, 37-1-304, 37-11-307, MCA; NEW, 1979 MAR p. 1496, Eff. 11/30/79; AMD, 1980 MAR p. 1607, Eff. 6/13/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 593, Eff. 3/26/82; AMD, 1983 MAR p. 346, Eff. 4/29/83; AMD, 1983 MAR p. 1664, Eff. 11/11/83; AMD, 1990 MAR p. 2107, Eff. 11/30/90; AMD, 1994 MAR p. 159, Eff. 1/28/94; AMD, 1994 MAR p. 1583, Eff. 6/10/94; AMD, 1995 MAR p. 2483, Eff. 11/23/95; AMD, 1997 MAR p. 38, Eff. 1/17/97; AMD, 2001 MAR p. 344, Eff. 2/23/01; AMD, 2004 MAR p. 75, Eff. 10/17/03; TRANS, from Commerce, 2005 MAR p. 380.)

Rules 24.177.508 and 24.177.509 reserved

24.177.510 FOREIGN-TRAINED PHYSICAL THERAPIST APPLICANTS

(1) Foreign-trained physical therapist applicants shall be subject to the following requirements:

- (a) compliance with educational standards equivalent to the national standards of the commission on accreditation of

physical therapy education of the American physical therapy association by using an evaluation of educational background performed by the Foreign Credentialing Commission of Physical Therapy, Inc. (FCCPT), P.O. Box 258227, Alexandria, VA 22313-9998.

- (b) pay any fee required by the services;
- (c) be at least 18 years of age;
- (d) submit three statements of good moral character;
- (e) have graduated from a board-approved physical therapy school;
- (f) if from a non-English speaking culture, the applicant shall display competency in the English language by passing the national examination test of English as foreign language (TOEFL) with a score of 50% of the total possible points on each subject. The applicant would contact TOEFL by writing:

TOEFL
Box 899
Princeton, New Jersey 08541, USA

A fee is required by TOEFL and must be paid by the applicant.

- (g) pass to the satisfaction of the board a written examination prescribed by the board and, if considered necessary, an oral interview to determine the fitness of the applicant to practice as a physical therapist.

- (h) All applicants who have previously taken the NPTE, in any jurisdiction, shall submit a request for test history verification and fee to the testing service, on a form prescribed by the board.

(2) Foreign-trained physical therapist assistant applicants are not eligible for licensure. (History: 37-1-131, 37-11-201, MCA; IMP, 37-11-310, MCA; NEW, 1983 MAR p. 1664, Eff. 11/11/83; AMD, 1990 MAR p. 2107, Eff. 11/30/90; AMD, 1994 MAR p. 1583, Eff. 6/10/94; AMD, 1995 MAR p. 2483, Eff. 11/23/95; AMD, 1997 MAR p. 38, Eff. 1/17/97; AMD, 2001 MAR p. 344, Eff. 2/23/01; AMD, 2003 MAR p. 2292, Eff. 10/17/03; TRANS, from Commerce, 2005 MAR p. 380.)

Sub-Chapter 6 reserved

Sub-Chapter 7

Topical Medication Rules

24.177.701 USE OF TOPICAL MEDICATIONS (1) Topical medication prescribed on a specific or standing basis by a licensed medical practitioner may be obtained from a pharmacy certified under 37-7-321, MCA, by either:

- (a) the licensed physical therapist directly, who will administer the topical medication for use in phonophoresis, iontophoresis, or direct application, under the prescription order of the licensed medical practitioner; or

- (b) the patient directly, who will obtain the prescribed topical medication at a certified pharmacy and bring it directly

to the physical therapist to be administered as part of a treatment plan.

(2) All prescribed topical medications, whether obtained by the physical therapist or patient directly, shall be stored at the physical therapist's place of business in compliance with proper storage guidelines under Title 37, chapter 7, MCA, or otherwise developed by the board of pharmacy.

(a) Any particular requirements for storage as noted by the pharmacist must be followed.

(b) Topical medications shall be stored below 40 degrees centigrade (104 degrees fahrenheit), preferably between 15 degrees and 30 degrees centigrade (59 degrees and 86 degrees fahrenheit), unless otherwise specified.

(c) All topical medications obtained by the patient directly and brought to the physical therapist's place of business shall be returned to the patient's possession at the termination of treatment with the patient.

(d) No topical medications obtained by the patient directly may be transferred to or used in treatment of any other physical therapy patient.

(3) All topical medications must be administered by the physical therapist as prescribed by the medical practitioner and in accordance with any pharmacy guidelines given to the physical therapist or patient who obtained the topical medication directly.

(4) A copy of the written prescription specifying the topical medication to be applied and the method of application (direct application, phonophoresis or iontophoresis) must be retained in the patient's physical therapy medical records. (History: 37-11-201, MCA; IMP, 37-11-106, MCA; NEW, 1992 MAR p. 789, Eff. 4/17/92; TRANS, from Commerce, 2005 MAR p. 380.)

Rules 24.177.702 and 24.177.703 reserved

24.177.704 TOPICAL MEDICATION PROTOCOLS (1) The following protocols apply to each classification and following list of topical medications for which a prescription is required under state or federal law:

(a) bactericidal agents:

(i) action: interferes with functions of the cell wall membrane.

(ii) indication: topical treatment for dermal infections.

(iii) contraindications: hypersensitivity to the specific substance, concurrent use of curariform muscle relaxants and other relaxants and other neurotoxic drugs. Consult the current Physicians Desk Reference (PDR) for further specifics.

(iv) SSD, SSD-AF--Silver sulfadiazine; (Sulfamylon)--Mafenide acetate cream; Gentamicin Sulfate--(Garamycin); Mycostatin - (Nystatin)--(cream, powder, ointment); (Lotrisone)--Clotrimazole and betamethasone dipropionate; Polymyxin B Sulfate--(Cortisporin, Neosporin); Nystatin--(Nystex); (Bactroban)--Mupirocin; Neomycin Sulfate--(Cortisporin cream, NeoDecadron topical cream, Neosporin cream, Neo-Synalar cream); Unna Boot--Dome Paste (zinc).

(b) debriding agents:

(i) action: cleanse the surface of wounds of wound exudate, bacteria, and particulate contaminants.

(ii) indication: cleanse exudative wounds such as venous stasis ulcers, decubitus ulcers, infected traumatic and surgical wounds, and infected burns.

(iii) contraindications: Dextranomer should not be used with topical antibiotics or debriding enzymes and should not be used in deep fistulas or any body cavity from which complete removal is not assured. Fibrinolysin and Deoxyribonuclease Combined (Bovine), a debriding enzyme, should be used with precaution against allergic reactions, particularly in patients hypersensitive to materials of bovine origin or to mercury compounds. Consult the current PDR for specifics.

(iv) (Elastase)--Fibrinolysin and desoxyribonuclease; (Elastase-Chloromycetin)--Fibrinolysin and desoxyribonuclease with chloramphenicol; Debrisan--(Dextranomer).

(c) anesthetic agents:

(i) action: blocks both the initiation and conduction of nerve impulses by decreasing the neuron membranes permeability to sodium ions.

(ii) indication: relieve pain and inflammation associated with minor skin disorders and for acute inflammatory conditions.

(iii) contraindications: sensitivity to the topical anesthetic, local infections at the site of application, and skin disorders, severe or extensive, especially if the skin is abraded or broken. Consult the current PDR for specifics.

(iv) (Fluoromethane)--Dichlorodifluoromethane 15%, trichloromonofluoromethane 85%; Lidocaine Hydrochloride; (Xylocaine)--Lidocaine Hydrochloride; (Chempad)--Lidocaine, Menthol, H Hydrocortisone, Menthol, LH Lidocaine Hydrocortisone, Menthol; (Medipad)--Lidocaine, Menthol, H Hydrocortisone, Menthol, LH Lidocaine Hydrocortisone, Menthol; (Ethyl Chloride)--Chloroethane; Menthol 0.8%--(Dermoplast, Medicore Derma-HC, Methalgen Cream, Panalgesic Gold cream-liniment, PrameGel, Nephro-Derm Cream); Dibucaine 1%--(Nupercainal cream and ointment, only 0.5%).

(d) anti-inflammatory agents (see adrenocortico-steroids)

(e) antispasmodic agents:

(i) action: forms strong drug-receptor complex at postganglionic parasympathetic neuroeffector sites in smooth muscle, cardiac muscle and exocrine glands, thereby blocking action of acetylcholine.

(ii) indication: reduce the volume of perspiration by inhibiting sweat gland secretions.

(iii) contraindications: some commercially available formulations may contain a sulfite that can cause allergic-type reactions in certain susceptible individuals. Consult the current PDR for specifics.

(f) adrenocortico-steroids:

(i) action: diffuses across cell membranes to complex with specific cytoplasmic receptors. The resulting complexes enter the nucleus, bind to DNA thereby irritating cytoplasmic synthesis of enzymes responsible for systemic effects of

adrenocortico-steroid.

(ii) indication: anti-inflammatory (bursitis, tendonitis, myositis, arthritis), antipruritic and vasoconstrictor actions.

(iii) contraindications: special care must be exercised when these agents are used in children, growing adolescents, and pregnant women. Intolerance to adrenocortico-steroids, infection present at the treatment site not controlled by antibiotics, prolonged use, large areas, and occlusive dressings. Consult the current PDR for specifics.

(iv) Hydrocortisone Cream 10%, 1%; (Decadron)--Dexamethasone sodium phosphate; (Aristocort)--triamcinolone acetonide; (Chempad)--L Lidocaine, Menthol, H Hydrocortisone, Menthol, LH Lidocaine Hydrocortisone, Menthol; (Medipad)--L Lidocaine, Menthol, H Hydrocortisone, Menthol, LH Lidocaine Hydrocortisone, Menthol; Dexamethasone--(Decaderm, Decadron); Betamethasone--(Alphatrex cream-ointment, Diprolene AF, Lotrisone cream, Maxivate cream-lotion-ointment, Psorion cream, Betatrex). (History: 37-11-201, MCA; IMP, 37-11-106, 37-11-107, MCA; NEW, 1992 MAR p. 789, Eff. 4/17/92; TRANS, from Commerce, 2005 MAR p. 380.)

Rules 24.177.705 and 24.177.706 reserved

24.177.707 APPLICATION AND ADMINISTRATION OF TOPICAL MEDICATION (1) All topical medication shall be applied or administered by a licensed physical therapist in accordance with 37-11-106, MCA, by: direct application, iontophoresis, or phonophoresis.

(2) All topical medication shall be applied or administered as prescribed by the licensed medical practitioner.

(3) All topical medication shall be applied or administered in accordance with generally accepted practices in the physical therapy field and in keeping with educational techniques in use at schools properly accredited by the commission on accreditation in physical therapy education (CAPTE). (History: 37-11-201, MCA; IMP, 37-11-106, 37-11-107, MCA; NEW, 1992 MAR p. 789, Eff. 4/17/92; TRANS, from Commerce, 2005 MAR p. 380.)

Sub-Chapters 8 through 20 reserved

Sub-Chapter 21

Renewals And Continuing Education

24.177.2101 RENEWAL OF LICENSE (1) As provided by 37-11-308, MCA, all licenses must be renewed on or before the renewal date set by ARM 8.2.208.

(2) Notices will be sent to the last address which the licensee has made available to the board. It shall be the licensee's responsibility to notify the board immediately upon change of address. Failure to receive a renewal notice shall not constitute grounds for failure to make timely renewal.

(3) A person may not practice as a physical therapist or a

physical therapist assistant in this state when their license has lapsed for failure to timely renew. (History: 37-1-131, 37-11-201, MCA; IMP, 37-11-308, MCA; NEW, 1979 MAR p. 1243, Eff. 10/12/79; AMD, 1980 MAR p. 1279, Eff. 4/25/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1995 MAR p. 2483, Eff. 11/23/95; AMD, 1997 MAR p. 38, Eff. 1/17/97; AMD, 2004 MAR p. 75, Eff. 10/17/03; TRANS, from Commerce, 2005 MAR p. 380.)

Rules 24.177.2102 through 24.177.2104 reserved

24.177.2105 CONTINUING EDUCATION (1) All licensees shall submit evidence of completion of continuing education requirements biennially with their license renewal. Training for entry into a field is not considered adequate assurance of continued competence throughout a physical therapist or physical therapist assistant career.

(2) The board/staff will not preapprove continuing education programs or sponsors. Qualifying criteria for continuing education is specified in these rules. It is the responsibility of the licensee to select quality programs that contribute to their knowledge and competence which also meet these qualifications.

(3) The continuing education program must meet the following criteria:

(a) the activity must have significant intellectual or practical content. The activity must deal primarily with substantive physical therapy issues as contained in the physical therapy definition in Montana. In addition, the board may accept continuing education activities from other professional groups or academic disciplines if the licensee demonstrates that the activity is substantially related to his or her role as a physical therapist or physical therapist assistant. A continuing education program is defined as a class, institute, lecture, conference, workshop, cassette or videotape, correspondence course or peer-reviewed publication of a journal article(s), textbook(s), or online course;

(b) the activity must be conducted by an individual or group qualified by practical or academic experience;

(c) all acceptable continuing education courses must issue a program or certificate of completion containing the following information: full name and qualifications of the presenter; title of the presentation attended; number of hours and date of each presentation attended; name of sponsor; and description of the presentation format;

(d) excluded are programs that promote a company, individual or product, and programs whose subject is practice economics, except those programs specifically dealing with workers' compensation or public health, medicare and insurance coverage issues;

(e) Presentation of a course will only be allowed for four hours of continuing education each two-year cycle. The course must be presented to a group including physical therapists and physical therapist assistants for continuing education credit.

Licensees whose regular occupation is teaching of physical therapy related courses will not be allowed continuing education credit for these regular teaching duties.

(4) Implementation for continuing education shall be as follows:

(a) one continuing education credit shall be granted for each hour of participation in lab or lecture of the continuing education activity, excluding breaks and meals. A maximum of two credits by cassette or videotape and a maximum of four credits from online or correspondence courses will be allowed. A maximum of 10 credits is allowed per reporting period for peer-reviewed publication of a journal article(s), textbook(s) and publication(s).

(i) Commencing on or before April 30, 1998, licensees with even-numbered licenses shall submit at least 20 continuing education hours earned within the 24 months prior to the renewal date in each even-numbered year. Licensees in this category will not report continuing education on the odd-numbered years, but must renew their license each year.

(ii) Commencing on or before April 30, 1999, licensees with odd-numbered licenses shall submit at least 20 continuing education hours earned within the 24 months prior to the renewal date in each odd-numbered year. Licensees in this category will not report continuing education on the even-numbered years, but must renew their license each year.

(b) no continuing education is required for licensees renewing their license for the first time;

(c) all licensees must submit to the board, on the appropriate year's license renewal, a report summarizing their obtained continuing education credits. The board will review these reports and notify the licensee regarding his/her noncompliance by December 1. Licensees found to be noncompliant with the requirement will be asked to submit to the board for approval a plan to complete the continuing education requirements for licensure. Prior to the next reporting year's license renewal deadline, those licensees who were found to be in noncompliance will be formally reviewed to determine their eligibility for license renewal. Licensees who at this time have not complied with continuing education requirements will not be granted license renewal until they have fulfilled the board-approved plan to complete the requirements. Those not receiving notice from the board regarding their continuing education should assume satisfactory compliance. Notices will be considered properly mailed when addressed to the last known address on file in the board office. No continuing education used to complete delinquent continuing education plan requirements for licensure may be used to meet the continuing education requirements for the next continuing education reporting period;

(d) if a licensee is unable to acquire sufficient continuing education credits to meet the requirements, he or she may request a waiver. All requests for waiver will be considered by the board and evaluated on an individual basis;

(e) it is the responsibility of the licensee to establish

and maintain detailed records of continuing education compliance (in the form of programs and certificates of attendance) for a period of two years following submission of a continuing education report;

(f) from the continuing education reports submitted each biennium, the board will randomly audit 5% of the reports. (History: 37-1-319, 37-11-201, MCA; IMP, 37-1-306, 37-11-201, MCA; NEW, 1997 MAR p. 38, Eff. 1/17/97; AMD, 1998 MAR p. 460, Eff. 2/13/98; AMD, 2001 MAR p. 344, Eff. 2/23/01; AMD, 2004 MAR p. 75, Eff. 10/17/03; TRANS, from Commerce, 2005 MAR p. 380.)

Sub-Chapter 22 reserved

Sub-Chapter 23

Unprofessional Conduct

24.177.2301 UNPROFESSIONAL CONDUCT (1) For the purpose of implementing the provisions of 37-11-321(3) and (9), MCA, the board defines immoral or unprofessional conduct, conduct unbecoming a person licensed as a physical therapist or physical therapist assistant and conduct detrimental to the best interests of the public as follows:

(a) Engaging in or soliciting sexual relations with a patient, sexual misconduct, sexual exploitation, sexual contact or sexual intercourse, as defined in 45-2-101, MCA, when such act or solicitation is related to the practice of physical therapy.

(b) Incompetence, negligence or use of any modality procedure in the practice of the profession which creates an unreasonable risk of physical or mental harm to the patient;

(c) Failing to make available, upon request of a person using the licensee's services, or his or her designee, copies of documents in the possession and under the control of the licensee, when those documents have been prepared by the licensee relating to his or her services performed on or for the patient;

(d) Any of the following, except when reasonably undertaken in an emergency situation to protect life, health or property:

(i) accepting and performing physical therapy or physical therapist assistant responsibilities which the licensee knows or has reason to know that he or she is not competent to perform;

(ii) failing to refer a patient to a qualified professional when such referral is called for;

(e) Violating statutory child abuse and elderly abuse reporting requirements;

(f) Promoting for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure or service;

(g) Over utilizing services by continuing treatment beyond the point of possible benefit to the patient or treating more frequently than necessary to obtain maximum therapeutic effect;

(h) Offering, undertaking or agreeing to cure or treat disease or affliction by a secret method, procedure, treatment

or medicine, or the treating, operating or prescribing for any health condition by a method, means or procedure which the licensee refuses to divulge upon demand of the board;

(i) Failing to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(j) Willfully or repeatedly violating rules established by any health agency or authority of the state or a political subdivision thereof;

(k) Fee-splitting and over utilization of services. (History: 37-1-131, 37-1-319, 37-11-201, MCA; IMP, 37-1-316, 37-1-319, MCA; NEW, 1989 MAR p. 833, Eff. 6/30/89; AMD, 1995 MAR p. 2483, Eff. 11/23/95; AMD, 1997 MAR p. 38, Eff. 1/17/97; TRANS, from Commerce, 2005 MAR p. 380.)

Sub-Chapter 24

Complaint Procedures

24.177.2401 COMPLAINT PROCEDURE (1) A person, government or private entity may submit a written complaint to the board charging a licensee or license applicant with a violation of board statute or rules, and specifying the grounds for the complaint.

(2) Complaints must be in writing, and shall be filed on the proper complaint form prescribed by the board, including a signed release of confidentiality and treatment records, and notarization of the signature.

(3) Upon receipt of the written complaint form, the board office shall log in the complaint and assign it a complaint number. The complaint shall then be sent to the licensee complained about for a written response. Upon receipt of the licensee's written response, both complaint and response shall be considered by the screening panel of the board for appropriate action including dismissal, investigation or a finding of reasonable cause of violation of a statute or rule. The board office shall notify both complainant and licensee of the determination made by the screening panel.

(4) If a reasonable cause violation determination is made by the screening panel, the Montana Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken.

(5) The screening panel shall review anonymous complaints to determine whether appropriate investigative or disciplinary action may be pursued, or whether the matter may be dismissed for lack of sufficient information. (History: 37-11-201, MCA; IMP, 37-1-308, 37-1-309, MCA; NEW, 1997 MAR p. 38, Eff. 1/17/97; TRANS, from Commerce, 2005 MAR p. 380.)

Rules 24.177.2402 through 24.177.2404 reserved

24.177.2405 SCREENING PANEL (1) The board screening panel shall consist of at least three board members, including the physical therapist board member who has served longest on the board; the medical doctor board member; and the public member of the board. The chairman may reappoint screening panel

members, or replace screening panel members as necessary at the chairman's discretion. (History: 37-11-201, MCA; IMP, 37-1-307, MCA; NEW, 1997 MAR p. 38, Eff. 1/17/97; TRANS, from Commerce, 2005 MAR p. 380.)